IN THE HIGH COURT OF JUDICATURE OF
ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MRS. JUSTICE T.MEENA KUMARI
AND
THE HON'BLE MR. JUSTICE G.CHANDRAIAH

WRIT PETITION NO. 15119 OF 2007

Dated : July 17, 2007

Between:

The Secretary to Government,
Environment, Forests, Science and Technology
Department, Secretariat, Hyderabad and others

Petitioners

AND

Md. Muzaffar Sayeed

Respondent

THE HON'BLE MRS. JUSTICE T.MEENA KUMARI
AND
THE HON'BLE MR. JUSTICE G.CHANDRAIAH

WRIT PETITION NO. 15119 OF 2007

ORAL ORDER: **(per THE HON'BLE MRS. JUSTICE T.MEENA KUMARI)**

This writ petition is filed seeking a writ of certiorari calling for the records relating to the order dated 08.20.2004 made in O.A. No. 7598 of 2000 by the A.P.

Administrative Tribunal, Hyderabad, and to quash the same as illegal and arbitrary.

The respondent herein filed the above O.A. before the Tribunal seeking a declaration that she is entitled for family pension in terms of GO Ms. No. 340 dated 8.11.1999 equal to the last pay drawn till the date of superannuation of the deceased employee and to direct payment of said benefit by setting aside memo dated 16.5.2000 issued by the respondent as illegal, arbitrary and discriminatory.

The case of the respondent herein before the Tribunal is that she is the wife of one Y. Subba Rao, who worked as Jeep Driver in Social Forestry Division, Guntur. The said Subba Rao, while returning from Narasaropet, after attending to his election duty, on 19.2.1995 breathed his last in an accident. It is stated that though ex-gratia of Rs.1.00 lakh was paid, family pension was not being paid to the respondent, inspite of the fact that GO Ms. No. 340 dated 8.11.1989 directs payment of family pension in cases where the employee died while performing risk borne duties, equal to the last pay drawn till the date of superannuation of the deceased employee, had he been alive. Therefore, the respondent file the above O.A. with the relief hereinbefore set out.

The case of the petitioners herein before the Tribunal was that since the death of the deceased

employee did not occasion in discharge of risk borne duties, the respondent cannot claim the benefit of GO Ms. No. 340 dated 8.11.1989 and the proposals claiming family pension submitted of the respondent, were rejected by the Government by Memo dated 3.11.1997.

The Tribunal observed that working during elections period especially in trouble prone areas involves risk and dispose of the O.A. setting aside the Memo and directed the respondents to give necessary benefits under GO Ms. No. 340 dated 8.11.1989.

Aggrieved thereby, the Department preferred this Writ Petition.

As can be seen from the record, the District Collector and the Conservator of Forests have recommended the case of the respondent for sanction of family pension, treating the nature of duty as risk borne. The occurrence of the accident is also not in dispute. Of course, in normal course, the deceased employee is not supposed to drive vehicle during mid-night, but as stated earlier, the deceased was on election duty and was returning after conference with the RDO, Narasaraopet. In such circumstances, we are of the considered view that the Tribunal was justified in holding that discharge of duties by the deceased employee is risk borne.

Therefore, having regard to the facts and

circumstances, we find no illegality or irregularity in the order passed by the Tribunal warranting interference.

Consequently, the writ petition is dismissed, being devoid of merits. No order as to costs.

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T.MEENA KUMARI, J.

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G.CHANDRAIAH, J.

July 17, 2007
MAS